



Nevada State Board of Medical Examiners

*** * * MINUTES * * ***

OPEN SESSION BOARD MEETING

**Held in the Conference Room at the offices of the
Nevada State Board of Medical Examiners**

1105 Terminal Way, Suite 301, Reno, NV 89502

and videoconferenced to

the conference room of the Nevada State Board of Dental Examiners

6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118

FRIDAY, MARCH 17, 2006 – 8:30 a.m.

and

SATURDAY, MARCH 18, 2006 – 8:30 a.m.

Board Members Present

Javaid Anwar, M.D., President

Sohail U. Anjum, M.D., Vice President

Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer

Marlene J. Kirch

Charles N. Held, M.D.

Jean Stoess, M.A.

Cindy Lamerson, M.D.

S. Daniel McBride, M.D.

Benjamin J. Rodriguez, M.D.

Staff Present

Drennan A. Clark, J.D., Executive Director/Special Counsel

Laurie L. Munson, Deputy Executive Director/

Information Systems Administrator/Chief of Administration

Bonnie S. Brand, J.D., General Counsel

Edward O. Cousineau, J.D., Deputy General Counsel

Lyn E. Beggs, J.D., Deputy General Counsel

Robert J. Barnet, M.D., Medical Reviewer

Jerry C. Calvanese, M.D., Medical Reviewer

Lynnette L. Daniels, Chief of Licensing

Carolyn Castleman, Deputy Chief of Licensing

Douglas C. Cooper, Chief of Investigations

Donald A. Andreas, Investigator (Las Vegas)

Also Present

Dianna Hegeduis, J.D., Chief Deputy Attorney General
Peter A. Mansky, M.D., Director, Nevada Health Professionals Assistance Foundation *(Las Vegas)*
John Lanzillotta, P.A.-C, Physician Assistant Advisory Committee Member *(Las Vegas)*
Steven E. Kessinger, C.R.T., Practitioner of Respiratory Care Committee Member
John H. Steinmetz, Jr., R.R.T., Practitioner of Respiratory Care Committee Member
Don Wright, R.R.T., Practitioner of Respiratory Care Advisory Committee Member *(Las Vegas)*
Peggy Alby, R.R.T., Practitioner of Respiratory Care Advisory Committee Member *(Las Vegas)*

FRIDAY, MARCH 17, 2006

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Javaid Anwar, M.D., President

The meeting was called to order by President Javaid Anwar, M.D., at 8:35 a.m.

Ms. Hegeduis took roll call, and all Board Members were present.

Agenda Item 2

APPROVAL OF MINUTES

- December 2 & 3, 2005 Board Meeting – Open/Closed Sessions
- December 15, 2005 Emergency Telephone Conference Call Board Meeting – Open Session
- January 5, 2006 Emergency Telephone Conference Call Board Meeting – Open Session

Ms. Stoess stated that the “M.D.” following Larry Matheis’ name on page 7 of the Open Session Minutes of December 2 & 3, 2005 should be removed.

Dr. Anjum moved to approve the Open Session Minutes of the December 2 & 3, 2005 Board meeting, as amended, the Closed Session Minutes of the December 2 & 3, 2005 Board meeting, the Minutes of the December 15, 2005 Emergency Telephone Conference Call Board Meeting and the Minutes of the January 5, 2006 Emergency Telephone Conference Call Board Meeting. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 3

PERSONNEL

Open Session

- Introduction of New License Specialist, Stefanie M. Weaver
 - Lynnette L. Daniels, Chief of Licensing

Closed Session

- Position-Specific Compensation Adjustment
 - Drennan A. Clark, J.D., Executive Director/Special Counsel

- Introduction of New License Specialist, Stefanie M. Weaver

Ms. Daniels introduced the Board’s new License Specialist, Stefanie M. Weaver, to the Board.

- Position-Specific Compensation Adjustment

Dr. Anjum moved to go into Closed Session. Mrs. Kirch seconded the motion, and it passed.

Upon returning to Open Session, Mrs. Kirch moved to approve an additional \$2,400 per year stipend for the position of Compliance Officer, effective April 1, 2006. Dr. Baepler seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 4

REPORT ON STATUS OF THE BOARD'S PUBLIC SERVICE ANNOUNCEMENT PROGRAM THROUGH NEVADA BROADCASTERS ASSOCIATION

- Jean Stoess, M.A., Board Member; Drennan A. Clark, J.D., Executive Director/Special Counsel

Mr. Clark stated he and Ms. Stoess would be meeting with representatives of Nevada Broadcasters Association to discuss the future of the Board's radio and television advertisements. All current ads are in both English and Spanish and are being broadcast statewide.

Mr. Clark explained that the new brochures would be distributed to physicians for placement in their offices. Mr. Cooper stated that brochures are also sent to anyone who calls the Investigations Division for information or to request a complaint form.

Ms. Stoess stated that the error noted by Dr. McBride at the last meeting was removed from the brochure and additional conduct that may warrant discipline of a licensee that was approved by the Legislature was added to the list before printing.

Dr. Anjum suggested that the next time the brochures are updated, the word "physicians" on the first page should be changed to "Medical Doctors (M.D.s)."

Lawrence Matheis, Executive Director of the Nevada State Medical Association, suggested that the brochure and poster be placed on the Board's website so physicians would have the option of downloading them directly.

Mr. Clark described the new advertisements proposed by Nevada Broadcasters Association. Discussion ensued concerning the times when the Board's advertisements are run and whether they are effective. Mr. Cooper stated that the Investigations Division has seen an increase in complaints being filed as a result of the advertisements.

Dr. McBride suggested that the radio and television ads be played for the Board at the next Board meeting.

Dr. Baepler emphasized that the advertisements do not focus on how to make a complaint; rather they are intended to make the public aware of the Board in a positive sense. Mr. Clark added that the thrust of the ads is that Nevada has many excellent doctors.

Dr. Held moved to accept the report as presented. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 7

**CONSIDERATION OF AND DISCUSSION CONCERNING AMENDMENT TO NEVADA
REVISED STATUTES CHAPTER 630 TO DEFINE THE USE OF LASERS AND BOTOX AS
THE PRACTICE OF MEDICINE**

- Drennan A. Clark, J.D., Executive Director/Special Counsel

Mr. Clark advised the Board that he had drafted a proposed statute, provided it to Dr. Lamerson and Dr. Rodriguez, who use lasers, for their input, and their suggestions were then incorporated into the draft which was before the Board for discussion. He had since gathered a lot of information from California, which has extensive regulations on the use of lasers in medical practice, which he was in the process of reviewing. At the time of the June meeting, when upcoming legislation will be discussed, he will have a better definition of the use of lasers in the practice of medicine to provide to the Board.

Dr. Baepler suggested that in number 4 of the proposed language, the words "on human subjects" should be inserted after the following language: "To use any laser device, including intense pulsed light devices for any purpose is considered to be the practice of medicine." The purpose is to focus on the use of lasers on humans, rather than the use of lasers for any purpose, such as in research laboratories, for industrial use, etc.

Dr. Lamerson stated that dentists also use lasers, so that needs to be taken into consideration in drafting the statute. Discussion ensued concerning the wording of the proposed statute and to whom the statute would apply.

Dr. McBride moved that the proposed statute be brought before the Board of Osteopathic Physicians and the Dental Board so that any statute enacted would apply to all those who treat human subjects.

Kathleen Kelly, Executive Director of the Nevada State Board of Dental Examiners, stated that any change the Medical Board might make to Chapter 630 would not be applicable to any other licensing boards that license medical or dental professionals and have other statutes for guidance, and that this is pursuant to a provision in the Medical Board's own statutes. She indicated the Dental Board has a statute regarding the use of lasers, NRS 631.215.

Dr. Baepler stated that since the Dental Board already had a statute in place, the Board should only have to discuss the matter with the D.O. Board.

Mrs. Kirch seconded the motion made by Dr. McBride. A vote was taken on the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark stated he and Ms. Hegeduis would discuss the issue with the Board of Osteopathic Medicine. Ms. Hegeduis said she would provide the information to the Board of Osteopathic Medicine at their meeting on April 1, 2006.

Agenda Item 5

CONSIDERATION OF ADOPTION OF AMENDMENTS TO NEVADA ADMINISTRATIVE CODE CHAPTER 630

- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, Requiring Licensees to Reinstate to Previous License Status Before Changing to New License Status Following Suspension for Nonpayment of Renewal Fees Within Renewal Registration Period
- Consideration of Amendment to Nevada Administrative Code Chapter 630, to specify grounds for Denial of Licensure to Physician Assistant Applicants
 - Edward O. Cousineau, J.D., Deputy General Counsel
- **Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, Requiring Licensees to Reinstate to Previous License Status Before Changing to New License Status Following suspension for Nonpayment of Renewal Fees Within Renewal Registration Period**

Mr. Cousineau stated that consistent with authority granted by the Board at the December meeting, two workshops and a public hearing were held on the proposed regulation. The first workshop was held in Las Vegas. The only individual who attended was Lawrence P. Matheis, Executive Director of the Nevada State Medical Association, who indicated that neither he nor his organization had any objection to the proposed regulation. No one attended the workshop or the public hearing in Reno, and Mr. Cousineau had received no written or telephonic comments concerning the regulation.

Mrs. Kirch moved to adopt the regulation. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- **Consideration of Amendment to Nevada Administrative Code Chapter 630, to Specify Grounds for Denial of Licensure to Physician Assistant Applicants**

Mr. Cousineau requested authority to proceed with adoption of a regulation regarding grounds for denial of licensure to physician assistants. The grounds for denial of a license and discipline are synonymous for M.D.s and R.T.s, but there are no specific grounds for denial of licensure to physician assistants. There are provisions in the Administrative Code providing grounds for discipline, but the only authority for denial of licensure is found in NAC 630.310. To be consistent with the other two practices, he was requesting authority to draft a regulation to assist the Board in the future when physician assistant applicants have certain issues which might be grounds for denial of licensure.

Mrs. Kirch moved to authorize Mr. Cousineau to proceed with drafting and adoption of the regulation. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 9

CONSIDERATION OF AND DISCUSSION CONCERNING BOARD-SPONSORED TWO-HOUR COURSE ON MEDICAL ETHICS

- Drennan A. Clark, J.D., Executive Director/Special Counsel; Robert J. Barnet, M.D., Medical Reviewer;
Jerry C. Calvanese, M.D., Medical Reviewer

Mr. Clark stated that at the December Board meeting, Dr. Anwar suggested it might be advantageous for the Board to provide a course in ethical training to meet the two-hour biennial CME requirement for ethics. Accordingly, Mr. Clark asked Dr. Barnet and Dr. Calvanese to put together a proposal for such a course. Under the proposal before the Board, Dr. Barnet would address the ethics portion of the program, Dr. Calvanese would outline for attendees problems he frequently sees that can be averted by physicians in their practice, and Board Counsel would identify legal issues they see on a regular basis concerning physicians. This is now before the Board for discussion.

Dr. McBride suggested that the Board might incorporate the Board's course into programs provided by malpractice insurance companies for their insureds, which are given on at least a semi-annual basis. That way, physicians would not have to attend a separate meeting to obtain their ethics CME credits.

Discussion ensued concerning the content of the proposed Board-sponsored course on ethics and whether it should be mandatory or offered as an alternative for M.D.s to attend, and the vehicle that would be used to supply CME credits for attendance.

Dr. McBride suggested that the course could be structured so that either a hospital or the Medical School would sponsor the course and pay the costs, and if the subject was pertinent to ethics so as to allow it to serve as the ethics CME requirement, it would be a service to physicians.

Lawrence P. Matheis, Executive Director of the Nevada State Medical Association, stated his organization accredits the 11 institutions in the state that can grant Category I CMEs, and if the Board would like to submit programs to those who put on the Category I CME programs, the Medical Association would be happy to assist. The School of Medicine is the one other organization in the state that can grant Category I CMEs. He suggested that the Board might also work with the School of Medicine and area health education centers to develop a program that could be placed on DVD and offered to licensees as an enduring CME program.

It was the consensus of the Board members that Board staff work with the Nevada State Medical Association to make the Board's medical ethics course available to licensees.

Agenda Item 10

REPORT ON STATUS OF CODE OF PROFESSIONAL ETHICS

- Drennan A. Clark, J.D., Executive Director/Special Counsel

Mr. Clark stated that at the December meeting, he was directed to take the proposed Code of Ethics to the D.O. Board for its consideration and report back to the Board. He met with Dr. Rudy Manthei, President of the D.O. Board. The D.O. Board will consider the matter at their April meeting, and Dr. Manthei will discuss the Board's decision with Mr. Clark, who will report back to the Board. He advised Dr. Manthei there was opposition to the code expressed by the Clark County Medical Society, the Washoe County Medical Society and the State

Medical Association so he understands there is a good deal of opposition in the practicing community.

Ms. Hegeduis stated a letter in opposition was sent directly to the members of the D.O. Board by Dr. Havins. Dr. Baepler stated the Board also received the same letter.

Agenda Item 12

**REQUEST FOR OPINION OF THE BOARD REGARDING OUTPATIENT CONSULTATIONS,
AND WHETHER A SPECIAL PURPOSE LICENSE WILL BE REQUIRED**

- Lynnette L. Daniels, Chief of Licensing

Ms. Daniels advised the Board she had received a letter from Dr. Marcin from the University of California at Davis, who wants to install telemedicine equipment at Banner Hospital in Fallon. She was of the opinion they would need a special purpose license in order to do that, but wanted the Board's opinion as to whether they would be practicing medicine in the state by performing these consultations.

Dr. Baepler said the way Dr. Marcin described it, they would be giving advice to doctors, at no charge, and would not see patients. It appeared it would be to a patient's advantage for his doctor to consult with another if the patient's doctor was puzzled by the situation, but he was unsure whether it would be considered the practice of medicine for those physicians to give advice to other physicians.

Dr. Lamerson stated that physicians call other physicians, particularly experts in a particular field, for advice all the time. The problem with telemedicine is that the person on the other side could actually be making the diagnosis and treatment plan without ever seeing the patient directly. So if there was a provision that the physician who was responsible for the care of the patient was a licensee of Nevada who was just using the advice of another physician, it should be acceptable.

Discussion ensued concerning whether it would make a difference if the remote physician charged for his or her services.

Dr. McBride moved that the Board accept the proposal from the University of California at Davis to participate with Banner Hospital in Fallon without requiring the physicians to have a Nevada license. Dr. Rodriguez seconded the motion.

Dr. McBride amended his motion as follows: that the Board participate in the University of California at Davis' federally-funded program to provide telemedicine capability and consultations and that a license would not be required, based upon the facts as presented in the document before the Board and that should the facts change, the Board's opinion may also change.

A vote was taken on the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 13

CONSIDERATION OF “PAPERLESS” BOARD MEETINGS

- Laurie L. Munson, Deputy Executive Director/Information Systems Administrator

Ms. Munson explained that many boards are moving to “paperless” meetings, meaning that agenda materials are provided on electronic media, rather than on paper. She had contacted boards that are currently utilizing paperless methods and summarized the information she had received. All documents to be provided to the Board members for review are scanned, either in-house or through an outside vendor, and placed on electronic media, which can then be downloaded to pcs or laptops for review. Laptops are utilized at the meetings and there is generally a hard copy of the materials available at the meeting for reference. The Board would need to purchase laptops, scanners, software and other equipment, and the conference room would need to be rewired for laptop use. The costs to convert ranged from \$40,000 to \$300,000, but a basic system would probably cost somewhere in the \$40,000 to \$60,000 range. She said if the Board members were interested in pursuing the idea, she would prepare detailed information on the costs of a paperless system versus the costs of the current system, as well as a proposed timeline.

Discussion ensued.

Ms. Kirch stated that her organization has cut down on costs and labor in going electronic.

Discussion ensued concerning storage of original records after scanning.

Ms. Stoess asked whether Ms. Munson had information concerning the current costs of preparation of Board materials, including copies, postage and labor. Ms. Munson stated that at this point she was just bringing the matter before the Board to see if there was an interest in pursuing the option, and therefore had done only cursory research into it, but if the Board members were interested in considering the idea, she would do further research and provide them with more information.

The consensus was that the Board should consider the option, so Ms. Munson said she would provide additional information, including current costs versus estimated costs of a paperless system, at a future Board meeting.

Agenda Item 6

CONSIDERATION OF AND DISCUSSION CONCERNING AMENDMENT TO NEVADA ADMINISTRATIVE CODE CHAPTER 630 TO ALLOW LICENSURE OF RENOWNED PHYSICIANS LICENSED IN OTHER STATES OR COUNTRIES TO PRACTICE IN NEVADA AT A CUTTING-EDGE MEDICAL CENTER OF EXCELLENCE

- Javaid Anwar, M.D., President; Drennan A. Clark, J.D., Executive Director/Special Counsel;
Nicholas Vogelzang, M.D., Director, Nevada Cancer Institute

Louis M. Fink, M.D., addressed the Board concerning licensure of eminent physicians. Dr. Fink described his medical training and background. He has been in academic medicine for over 30 years, and has sat on promotions and tenure boards that evaluate the academic standing of individuals for 10 years. He has been interacting with physicians, particularly

oncologists and pathologists, in Nevada for a year and sees there is a real need for more critical mass in the state, particularly in some of the subspecialties. He thinks Nevada needs to widen its scope to a global pool to attract the best doctors to come to Nevada, and thinks there ought to be a well-defined pathway to enhance the academic programs in the state and the teaching of subspecialties. He has been involved in recruiting in Nevada and money is not the only issue; there is not a tradition here that attracts people like some of the big schools in the east and the far west. Additionally, salaries are generally lower for people in academic medicine so there needs to be a wider pool of those individuals who choose that as their career pathway. In Nevada, there are compelling and unique opportunities that should allow the state to compete for non-U.S. eminent physicians. At least 13 states' medical boards have exemptions for when medical schools come to the board with people they are sponsoring. He provided examples of what some other states do in these cases. He proposed that until legislation can be enacted, the Nevada requirements for passage of the USMLE and three years progressive training be exempted for individuals who meet certain criteria and are recommended by the medical school. These individuals would be restricted to practicing at the sponsoring school's facilities. He described the criteria he thought should be met in order for a physician to be classified as eminent, and stated it would be a very limited group of people who would pass the extensive muster required to be considered for the available positions.

Dr. Baepler asked whether the Cancer Institute qualified as an academic institution, and Dr. Fink stated it was the state-designated cancer center, that almost all there have appointments to teach at both UNR and UNLV, and that the new center being built for Alzheimer's and Parkinson's would qualify as well. Dr. Baepler stated Nevada does not have a biomedical research infrastructure, and consequently it is difficult to attract distinguished international individuals.

Dr. McBride asked what would happen if the individuals left the sponsorship of the University or Cancer Institute similar facility, and Dr. Fink stated they would no longer have a license in Nevada.

Dr. McBride stated it would be similar to a restricted license.

Mr. Clark stated that most states use limited licenses that limit the individual's practice to the particular facility that sponsors the individual.

Ms. Castleman asked how a "Center of Excellence" is defined. She was concerned that a number of medical groups might come forward and attempt to claim they are "Centers of Excellence" in order to obtain a license for a particular physician. Dr. Fink stated in order to be designated as a "Center of Excellence" a facility should be aligned either with a major accredited academic institution or designated by the Governor as a state center. Dr. McBride added that each of those designations should be approved by the Board as well.

Dr. Baepler moved that the Board proceed with an amendment to NAC Chapter 630 to allow licensure of renowned physicians to practice medicine at centers of excellence. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 14

REPORTS

- Diversion Program - Quarterly Report - Peter A. Mansky, M.D., Director; Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John B. Lanzillotta, P.A.-C, Advisory Committee Member
- Practitioner of Respiratory Care Advisory Committee - Steven E. Kessinger, C.R.T., Advisory Committee Member
 - Consideration of Request for Approval of Appointment of Replacement Committee Member
- Investigative Committees - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson, Investigative Committee A
Sohail U. Anjum, M.D., Vice President, Chairperson, Investigative Committee B
 - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division - Douglas C. Cooper, Chief of Investigations; Terri L. Ward, Investigator/ Compliance Officer
 - Status of Investigative Case Load
 - Project Update
 - Training Report
 - Compliance Report
- Nevada State Medical Association Liaison Report - Cindy Lamerson, M.D., Board Member; Lawrence P. Matheis, Executive Director, Nevada State Medical Association
- Clark County Medical Society Liaison Report - Benjamin J. Rodriguez, M.D., Board Member; Weldon Havins, M.D., J.D., CEO and Special Counsel, Clark County Medical Society
- Washoe County Medical Society Liaison Report - Cindy Lamerson, M.D., Board Member; Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
 - Status of Finances

- Diversion Program: Quarterly Report

Peter A. Mansky, M.D., told the Board the Diversion Program was currently monitoring 99 individuals, 74 of whom were allopathic physicians, physician assistants or respiratory therapists. There were 7 physicians and 1 respiratory therapist in various stages of applying for licensure and 9 physicians who were pending at the present time. Of the total 80 who were being monitored, 24 were from northern Nevada, 53 from southern Nevada, and 3 from out of state. The Program was still using multiple centers for referral in order to seek the best treatment for the participant at the time. One-third of their participants were on the new urine collection and random method. They were continuing to lecture medical students in the north and south. Financially they had a four-month operating reserve, but they also had four outstanding lawsuits. They have a need for liability protection due to the lawsuits, and he thanked Tony Clark, Bonnie Brand, Dianna Hegeduis, the Washoe County Medical Society and the Clark County Medical Society for their assistance with this issue. They want to continue to build their relationships with the Medical Societies to have a firm base with the physicians in Nevada.

Ms. Stoess moved to accept the report as presented. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Physician Assistant Advisory Committee

John Lanzillotta, P.A.-C, requested the Board consider a change in the language of two Nevada statutes which involve physician assistant practice. The changes would update legislation that was written around the inception of the profession and does not reflect the current practice situation. The first is to NRS 630.025, the definition of a supervising physician. It was written at a time when most physician assistants were hired and employed by one physician; however, currently a number of physician assistants, as well as doctors, are employed by corporations. A change to this language would allow compliance by physician assistants with the statute and also eliminate problems in credentialing. The change could read: "Supervising physician means an active physician licensed in the state of Nevada and in good standing with the board who supervises a physician assistant or physicians assistants." In reference to NRS 630.025, he has researched the language and found that most states have already made the change the Advisory Committee is requesting Nevada make.

The second request involves NRS 629.031, the statute that defines a provider of healthcare. It lists providers such as physicians, nurses, optometrists and respiratory therapists, but does not include physician assistants. The Advisory Committee requests the addition of physician assistants.

The Advisory Committee is asking the Board to consider these language changes, and if approved, to add them to the Board's legislative agenda for 2007.

Dr. Anwar stated that what the Committee desires is to adopt language that reflects what is currently happening in the practice of medicine.

Dr. Baepler asked whether there was a limit to the number of physician assistants a physician could supervise, and Mr. Lanzillotta stated the number was three, pursuant to the statute, which would not change.

Mrs. Kirch stated it made sense that if the practice has changed and the way physician assistants are being employed has changed, to update the statutes to properly reflect what is going on in the medical community.

Dr. Anjum moved that the Board include the changes proposed by the Advisory Committee in the Board's 2007 legislative packet. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Practitioner of Respiratory Care Advisory Committee

- Consideration of Request for Approval of Appointment of Replacement Committee Member

Steven E. Kessinger, C.R.T., advised the Board that Don Wright, R.R.T. had resigned from the Board, and the Advisory Committee had provided the Board with a recommendation to appoint Art Little, R.R.T. as a committee member to replace Mr. Wright.

Mr. Kessinger then introduced Advisory Committee members Peggy Alby, R.R.T. and John Steinmetz, R.R.T. to the Board.

Mr. Kessinger stated he had received a call from an individual in southern Nevada concerning a suggestion from one of the hospitals in the area that some LPNs be transferred to the respiratory care department to do simple Med-Neb treatments on the night shift. There is a concern because LPNs don't have respiratory care licenses and under the Nevada Board of Nursing regulations, that would be prohibited because LPNs cannot take direction from respiratory therapists. Nothing prohibits RNs from this practice. Another item is pulmonary function testing, which is included in the scope of practice for respiratory therapists, but the question is whether an individual who is doing only simple pulmonary function testing and nothing else within the scope of respiratory care licensing, would be required to have a license to practice respiratory care in the state of Nevada. The Advisory Committee thinks they probably should, but they are asking the Board for its direction.

Dr. Held stated he thinks they should be licensed, but there are people who are not licensed who are very good and have been doing pulmonary function studies for years, if not decades, so if licensure is going to be made a requirement, it might be worthwhile to do so from this point forward and grandfather in those who have already been performing these functions for a long time.

Dr. Held moved that the Board appoint Art Little, R.R.T. to the Practitioner of Respiratory Care Advisory Committee. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

**Investigative Committees – Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer,
Chairperson, Investigative Committee A
Sohail U. Anjum, M.D., Vice President, Chairperson,
Investigative Committee B**

- Consideration of Cases Recommended for Closure by the Committees

Dr. Baepler reported that Investigative Committee A considered 109 cases, authorized the filing of formal complaints in 5 cases, requested appearances in 7 cases, referred 8 cases back to investigative staff for further investigation or follow-up, issued 3 letters of concern, recommended closure of 86 cases, and no additional peer reviews were required.

Mrs. Kirch moved to approve for closure the cases recommended by Investigative Committee A. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Anjum reported that Investigative Committee B considered 108 cases, authorized the filing of formal complaints in 3 cases, sent 2 cases out for peer review, requested appearances in 2 cases, issued 9 letters of concern, referred 5 cases back to investigative staff for further investigation or follow-up and recommended closure of 87 cases.

- Investigations Division

- Status of Investigative Caseload

Mr. Cooper stated that as of that morning there were 673 open cases, and after closing the cases recommended for closure by the Investigative Committees, there would be 464 open cases, which would equal a caseload of 77.3 cases per investigator. The average in the west is 45 cases per investigator. There are currently 69 peer reviews in the field and 52 peer review requests pending assignment, as well as 3 licensing peer reviews to schedule. There are 146 civil court cases that have not yet been opened, and adding that to the 464 cases that are currently open, the total is 610 open cases.

- Project Update

Mr. Cooper advised the Board the two interns are very busy working on the various projects they have been tasked to do, including a report on the in-office surgery reporting forms.

- Training Report

Mr. Cooper advised there was some upcoming training for Investigators, but nothing to report at this time.

- Compliance Report

Ms. Ward explained that when she originally archived the cases in which the respondents were not in compliance with Board-ordered terms, she put them into two groups -- those from 1978 through 2004 and those from 2005. Of the 33 files in the 1978 through 2004 group, 13 have been closed. Of the 25 files in the 2005 group, 19 have been closed. There are 12 open files from 2006 thus far, for a total of 38. There were 14 letters of concern issued in 2004 and 63 in 2005. In 2005, 35 formal complaints were filed, and 2 have been filed in 2006. To date they have collected over \$37,000. They are utilizing all available avenues, including the Attorney General's Office, to bring all respondents into compliance.

Dr. Anwar asked whether there was a limitation in time to collect monies from the Board's orders, and Ms. Ward advised that in order to turn a case over to the Attorney General's Office, it must be done within 4 years of the order, but a case can be brought back before the Investigative Committee for a new order, such as for failure to comply.

Ms. Hegeduis explained that once she receives an order from the Board, she can apply to the court for a judgment, which can then be recorded in a county recorder's office and constitutes a lien on any real property the individual may own. It is also possible to execute on wages, bank accounts, etc. A judgment is good for six years and can be renewed, and it can be domesticated in another state if an individual moves from one state to another. The Controller's Office has entered into agreements with some boards to collect some of their judgments in other states because the Controller's Office has the ability to hire collection agencies in other states to collect upon the judgments.

**Investigative Committees – Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer,
Chairperson, Investigative Committee A
Sohail U. Anjum, M.D., Vice President, Chairperson,
Investigative Committee (CONTINUED)**

- Consideration of Cases Recommended for Closure by the Committees (CONTINUED)

Ms. Stoess moved to approve for closure the cases recommended by Investigative Committee B. Dr. Lamerson seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Investigations Division (CONTINUED)

- Status of Investigative Caseload (CONTINUED)**
- Project Update (CONTINUED)**
- Compliance Report (CONTINUED)**

Dr. McBride moved to accept the reports as presented. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Nevada State Medical Association Liaison Report

Dr. Lamerson stated the main topic of discussion at the last meeting of the Nevada State Medical Association was the status of the Code of Ethics proposed by the Board. The Medical Association and the two Medical Societies agree a code of ethics for physicians is a good thing, but the problem they have with it is if the Board were to adopt it, it would become law, and there are already laws in existence that cover the same things and if the law is reworded, it might be interpreted differently by the courts. It was suggested that the Board could endorse the proposed Code of Ethics and the Medical Association and the two Medical Societies could adopt it, and that would be a way to make it a guideline and not a law.

Dr. Barnet stated the proposal as stated makes sense, but the statement in the current statute is an issue that needs to be resolved one way or another. There were problems with adopting the AMA code, in part because a lot of physicians do not belong to the AMA. He is pleased there has been such a wide acceptance of the proposed Code of Ethics and it makes sense to have one that is more generic than to have one tied into the AMA or any individual specialty group.

Mr. Clark stated the proposal addresses and resolves the situation, and if the Legislature were to ask what the Board has done about it, the Board could say it has endorsed the guideline that has been adopted by the medical profession throughout the state. Board staff has not yet heard from the Osteopathic Board as to their feelings concerning the proposed Code of Ethics.

Lawrence P. Matheis, Executive Director of the Nevada State Medical Association, stated the Medical Association wants to have the ethical guidelines available and make it clear that they provide good guidelines for physicians, but not to get bogged down with legal problems that might occur if it were adopted by regulation. The NSMA annual meeting will be held on April 28-30, and he will report on the issue so action can be taken on it.

- Clark County Medical Society Liaison Report

Dr. Rodriguez stated his report is duplicative of Dr. Lamerson's, as the Clark County Medical Society's concerns were the same and their discussion was basically the same.

Weldon Havins, M.D., J.D., CEO and Special Counsel of the Clark County Medical Society, stated that a few years ago, the Board of Cosmetology came before the Board of Medical Examiners with a concern about the use of lasers and chemical peels, and were soliciting guidelines. The Board's feeling at that time was that it was outside the purview of the Board, and nothing occurred. The Board might want to communicate with the Cosmetology Board to see whether they are still receiving complaints about individuals being harmed by lasers and chemical peels. Podiatrists and Optometrists use lasers, so it might be worthwhile coordinating the boards' efforts and changing the law in Chapter 629, under Title 54, which would apply to all the professions and occupations.

Dr. Havins encouraged the Board to develop the ethics course, make it non-mandatory and make it available to its licensees because information concerning ethical issues that come before the Board on a regular basis is not available through other courses.

Lastly, Dr. Havins stated he is licensed in North Carolina and the North Carolina Medical Board issues position statements on subjects such as laser surgery, which are not laws, but explanations on how the Board feels on those subjects. He will provide copies to Board staff if they would like to see them.

- Washoe County Medical Society Liaison Report

Dr. Lamerson stated her report is duplicative of the report she gave previously with respect to the Nevada Medical Association.

- Secretary-Treasurer

- Status of Finances

Dr. Baepler stated the Board's finances appear to be in good shape. The number of physician applications had been less than anticipated at the time of the last report, but that number has increased in the last quarter, and will be satisfactory. Additionally, the interest rates on the Board's CDs are increasing slightly as the CDs mature. The only caution he would offer, budget-wise, is that the Board seems to be requiring an ever-increasing number of peer reviews, currently 121, which has an impact upon the budget, and the Board may have to allot additional funds for them in the future or be more restrictive in requesting them.

Dr. Barnet stated a significant number of the peer reviews are due to the fact that there is no Medical Screening Panel, and because there are still a significant number of court cases, particularly in Clark County, which are complicated and significant enough, and outside the purview of the Medical Reviewers' areas of expertise, to warrant peer reviews.

Dr. Lamerson asked whether the Board could approach the Legislature to reinstitute the Medical Screening Panel, and Mr. Clark advised that the Legislature declined to consider reinstituting the Panel during its 2005 session.

Discussion ensued concerning the work done by the former Medical Screening Panel and whether the Board should again approach the Legislature concerning reinstituting the Medical Screening Panel.

Ms. Stoess moved to accept the report as presented. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 15

EXECUTIVE STAFF REPORTS

- Consideration of Request for Staff Attendance at Educational Meetings
- Status of Board Office Space
- Informational Items
 - Drennan A. Clark, J.D., Executive Director/Special Counsel

- Consideration of Request for Staff Attendance at Educational Meetings

Mr. Clark requested authority for staff to attend the educational meetings outlined on the list provided to Board members as part of the agenda packet.

Mrs. Kirch moved to approve the requests for training as outlined in the materials provided as part of the agenda packet. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Status of Board Office Space

Mr. Clark reported the renovation of the office space on the second floor of the building is complete and the Licensing Division has moved in. The files will be moved back into the building into the office space on the first floor vacated by the Licensing Division.

Agenda Item 16

- LEGAL REPORTS** - Bonnie S. Brand, J.D., General Counsel
Edward O. Cousineau, J.D., Deputy General Counsel
Lyn E. Beggs, J.D., Deputy General Counsel
Dianna Hegeduis, J.D., Chief Deputy Attorney General
- Board Litigation Status

- Board Litigation Status

Ms. Brand reported there are four cases before the Board at this meeting pending adjudication and four before the Board pending settlement. The Board has issued 20 letters of concern since the last Board meeting, 33 cases are scheduled for hearing, there are 13 cases in which the Investigative Committees have authorized the filing of formal complaints and 47 cases awaiting Investigative Committee summaries. The Mower case is awaiting a decision by the Nevada Supreme Court following oral argument in December.

Mr. Cousineau reported that Jeffrey Wick has filed an appeal of the Board's denial of his application for licensure with the Washoe County District Court. All pleadings have been submitted and Dr. Wick has requested oral argument, which has not yet been set. Dr. Wick filed a motion to strike some of the materials the Board filed and that motion was denied by the court.

Ms. Hegeduis reported that she was successful in getting most of the counts dismissed in the Giarrusso case, leaving three remaining counts. A discovery plan is due in April and she will proceed with attempting to get the other counts of the case dismissed.

Ms. Stoess moved to accept the reports as presented. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 17

ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. MOHAMMAD H. FANI-SALEK, M.D., BME CASE NO. 05-22701-1

- Bonnie S. Brand J.D., General Counsel

OPEN SESSION

Ms. Brand summarized the facts of the case for the Board. When Dr. Fani-Salek applied for an unrestricted license, after having a resident license for three years, Ms. Daniels realized his documentation was not in order. The Board has given him many opportunities to present proper documentation, but he has failed to do so. As a result, a complaint was filed against him and in April 2005, the Board summarily suspended his license to practice medicine pending a formal hearing on the complaint. The hearing was held in December 2005.

The non-adjudicating Board members, as well as Ms. Brand, left the room.

Mrs. Kirch moved to go into Closed Session. Ms. Stoess seconded the motion, and it passed.

Upon returning to Open Session, Dr. Rodriguez moved that the Board suspend Dr. Fani-Salek's license based on inadequate proof of graduation from medical school. Dr. Lamerson seconded the motion.

Discussion ensued concerning whether it should be a revocation, rather than a suspension.

Dr. Rodriguez amended his motion to revoke Dr. Fani-Salek's license to practice medicine in Nevada. Dr. Lamerson seconded the amended motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Mrs. Kirch moved that the Board find Dr. Fani-Salek guilty of Count I, that he obtained his medical license by fraud, misrepresentation or by false, misleading, inaccurate or incomplete statements. Dr. Lamerson seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Lamerson moved that the Board order Dr. Fani-Salek to reimburse the Board's costs and expenses incurred in the investigation and prosecution of the case against him. Dr. Rodriguez seconded the motion.

Dr. Lamerson withdrew her previous motion and moved that the Board fine Dr. Fani-Salek \$5,000 and order that he reimburse the Board's costs and expenses incurred in the investigation and prosecution of the case against him. Mrs. Kirch seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 18

ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. DAVID M. MCCANN, M.D., BME CASE NO. 05-10320-1

- Edward O. Cousineau, J.D., Deputy General Counsel

OPEN SESSION

Mr. Cousineau summarized the facts of the case for the Board. Dr. McCann was investigated by the California Board of Medical Examiners and the California Attorney General's Office concerning various allegations. Dr. McCann surrendered his California medical license while under investigation and failed to notify the Nevada Board of both the surrender of his license and the change in status of his license. The Board discovered this information through investigation and a complaint was brought against Dr. McCann alleging the two violations.

The non-adjudicating Board members, as well as Mr. Cousineau, left the room.

Mrs. Kirch moved to go into Closed Session. Dr. Rodriguez seconded the motion, and it passed.

Upon returning to Open Session, Mrs. Kirch moved that the Board find David M. McCann, M.D. guilty of Counts I and II of the complaint against him, that he surrendered his license in California and did not report that action to the Nevada State Board of Medical Examiners within the appropriate amount of time. Dr. Lamerson seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Mrs. Kirch moved that the Board revoke Dr. McCann's license to practice medicine, fine Dr. McCann \$3,000, and order that he reimburse the Board's costs and expenses incurred in the investigation and prosecution of the case against him. Ms. Stoess seconded the motion.

Discussion ensued concerning the California Medical Board case against Dr. McCann.

A vote was taken on the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Mrs. Kirch amended her original motion to include that the fine and reimbursement of costs are to be paid by Dr. McCann within 60 days of the date of the Board's order. Ms. Stoess seconded the amended motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 17

ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. MOHAMMAD H. FANI-SALEK, M.D., BME CASE NO. 05-22701-1

(CONTINUED)

- Bonnie S. Brand J.D., General Counsel

OPEN SESSION

Dr. Lamerson amended her original motion to include that the fine and reimbursement of costs are to be paid by Dr. Fani-Salek within 90 days of the date of the Board's order.

Mrs. Kirch seconded the amended motion, and it passed, with all adjudicating Board members voting in favor of the motion.

Agenda Item 19

ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. ROBERT CHEN, M.D., BME CASE NO. 05-12357-1

- Bonnie S. Brand J.D., General Counsel

OPEN SESSION

Ms. Brand summarized the facts of the case for the Board. A 44-year-old woman went to the emergency room with severe flank pain, nausea and vomiting. She was found to have a kidney stone, one of her kidneys was swollen and she had hypernephrosis. The emergency room physician ordered tests, one of which was a urinalysis, but the physician did not get the results of the urinalysis. He did not believe she had an infection; however, the urinalysis would have shown that she did. He sent her home with pain pills, she came back a day later with severe sepsis and she passed away.

Mr. Clark named the adjudicating Board members. The non-adjudicating Board members, as well as Ms. Brand, left the room.

Mrs. Kirch moved to go into Closed Session. Dr. Rodriguez seconded the motion, and it passed.

Upon returning to Open Session, Dr. McBride moved that the Board find Robert Chen, M.D. guilty of one count of malpractice, in that his treatment of the patient fell below the standard of care. Mrs. Kirch seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. McBride moved that Dr. Chen receive a public reprimand and that he be ordered to reimburse the Board's costs of investigation and prosecution of the case against him, payable within 60 days of the date of the Board's order. Dr. Rodriguez seconded the motion.

Discussion ensued concerning Dr. Chen's current license status.

A vote was taken on the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

RECESS

Dr. Anwar recessed the meeting for lunch at 12:35 p.m.

RECONVENE

Dr. Anwar reconvened the meeting at 1:15 p.m.

Agenda Item 11

CONSIDERATION OF REQUEST BY STEVEN SANDERS, M.D., THAT THE BOARD ADOPT A POLICY REQUESTING APPLICANTS FOR LICENSURE TO SIGN A “TRUTH IN TESTIMONY” STATEMENT TO ENSURE ACCURACY AND ACCOUNTABILITY OF EXPERT WITNESS TESTIMONY IN MALPRACTICE LITIGATION CASES

- Steven Sanders, M.D., President, Nevada Orthopedic Society

Steven Sanders, M.D., President of the Nevada Orthopedic Society, stated he wanted to address the Board to submit information pertaining to an expert witness program as one of many ways to confront the malpractice issues and problems in Nevada. Orthopedic surgeons, through the Academy of Orthopedic Surgeons, have a program in which they are invited to sign a “truth in testimony” statement and adhere to ethical criteria in being an expert in a malpractice case. The benefits are that it puts physicians who want to participate as expert witnesses on notice that their testimony will be looked at and they can be sanctioned by the governing body. He feels this will limit the number of “hired guns” willing to be hired to testify anywhere at any time on any issue.

Mr. Clark stated that every witness, expert or otherwise, who testifies takes an oath that his or her testimony is going to be truthful, and if it is not truthful, the witness can be prosecuted for perjury.

Dr. Sanders stated that has rarely, if ever, happened in the course of a personal injury case, as one could argue it is just an opinion. This program takes it to a higher level where physicians are policing themselves, and if a physician could prove to the board or the committee that a physician who testified against him did not testify within the standard of care and the standard of literature, he would have a means to seek sanctions against that physician.

Dr. Anwar stated it is an important issue, but it is something that would best be implemented by the physician bodies at the county or state level, or within the various physician disciplines, such as internal medicine, family practice, etc.

Dr. Sanders suggested the Board could simply express support for the concept and make a recommendation to physicians that it is a form it would want physicians to sign and, over time, if deemed appropriate by the Board, it could go to a next phase, which would be one of actual review and potential sanctions with regard to malpractice if a physician were to testify in a manner that didn't meet the state of the current medical literature.

Dr. McBride said The American College of Surgeons has a similar proposal in the sense that they are attempting to educate their members that if they are going to offer expert testimony, they must adhere to certain standards, and their testimony could be reviewed. He thinks it is more appropriate for the specialty societies to take this upon themselves and the professional expert witness that is out there testifying to anything he is asked to testify to will be identified. He doesn't disagree with what Dr. Sanders is attempting to do, but he doesn't think the Board can impose any kind of requirement for an applicant to sign a statement that he is going to adhere to it.

Dr. Anjum stated he endorsed the idea on a personal basis, but agreed that it should remain at the local association level.

Agenda Item 20

ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. RONALD FOOTE, M.D., BME CASE NO. 05-12899-01

- Edward O. Cousineau, J.D., Deputy General Counsel

OPEN SESSION

Mr. Cousineau summarized the facts of the case for the Board. In September of 2003, Dr. Foote was involved in a vehicle accident in Las Vegas and was arrested by police. He was transported to University Medical Center for treatment, where it was alleged he engaged in conduct that was violative of the Medical Practice Act in that it brought disrepute upon the profession and interfered with patient care.

The non-adjudicating Board members, as well as Mr. Cousineau, then left the room.

Mrs. Kirch moved to go into Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Dr. Rodriguez moved that the Board find Ronald Foote, M.D. not guilty of Count I of the complaint against him. Mrs. Kirch seconded the motion, and it passed, with Dr. Anwar abstaining from the vote and all other adjudicating Board members voting in favor of the motion.

Dr. Rodriguez moved that the Board find Dr. Foote guilty of Count II of the complaint against him, that he engaged in conduct that brings the medical profession into disrepute. Mrs. Kirch seconded the motion, and it passed, with Dr. Anwar abstaining from the vote and all other adjudicating Board members voting in favor of the motion.

Dr. Rodriguez moved that Dr. Foote receive a public reprimand, and that he be ordered to reimburse the Board's costs of investigation and prosecution of the case against him, payable within 90 days of the date of the Board's order. Ms. Stoess seconded the motion.

Dr. Rodriguez amended his motion to add that Dr. Foote be required to complete his current contract with the Diversion Program. Ms. Stoess seconded the amended motion, and it passed, with Dr. Anwar abstaining from the vote and all other adjudicating Board members voting in favor of the motion.

Agenda Item 21

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. EDWIN KULUBYA, M.D., BME CASE NO. 05-8289-1

- Lyn E. Beggs, J.D., Deputy General Counsel

OPEN SESSION

Mrs. Kirch moved to go into Closed Session. Dr. Anjum seconded the motion, and it passed.

Upon returning to Open Session, Mrs. Kirch moved that the Board accept the settlement as presented. Ms. Stoess seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 22

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. SEAN SU, BME CASE NO. 05-11344-01

- Lyn E. Beggs, J.D., Deputy General Counsel

OPEN SESSION

Mrs. Kirch moved to go into Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Dr. Anjum moved that the Board accept the settlement as presented. Mrs. Kirch seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 23

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. DANIEL FIGLIO, C.R.T., BME CASE NO. 05-28972-1

- Edward O. Cousineau, J.D., Deputy General Counsel

OPEN SESSION

Mrs. Kirch moved to go into Closed Session. Dr. Rodriguez seconded the motion, and it passed.

Upon returning to Open Session, Ms. Stoess moved that the Board accept the settlement as presented. Mrs. Kirch seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 24

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. DIETRICH STOERMER, M.D., BME CASE NO. 05-4420-2

- Bonnie S. Brand J.D., General Counsel

OPEN SESSION

Mrs. Kirch moved to go into Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Mrs. Kirch moved that the Board accept the settlement as presented. Dr. McBride seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 25

LICENSURE RATIFICATION

- Ratification of Licenses Issued, and Reinstatements of Licensure and Changes of Licensure Status
Approved Since the December 2 & 3, 2005 Board Meeting

Mrs. Kirch moved that the Board ratify the licenses issued and reinstatements of licensure and changes of licensure status approved since the December 2 & 3, 2005 Board meeting. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 26

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS
FOR LICENSURE**

Dr. Held moved to go into Closed Session to discuss the character and professional competence of applicants for licensure. Ms. Stoess seconded the motion, and it passed.

CLOSED SESSION

26(a) Dale Mericle, M.D.

Dr. McBride questioned Dale Mericle, M.D., who appeared before the Board to respond to questions concerning his affirmative responses to Questions 12, 14, 27, 31 and 33 on his application for licensure.

Dr. McBride asked about the restrictions placed upon Dr. Mericle while employed at Sierra Community Hospital in Fresno and why Dr. Mericle stated he was given a 4-month restriction that lasted only 60 days, when the reason it only lasted 60 days was because he resigned after 60 days. It appeared from the way he worded it that he was attempting to make it seem like it was less than it actually was.

Dr. Mericle explained the circumstances surrounding the complaints against him while at the hospital in Fresno and the restrictions placed upon him there, and stated he provided all the information to the Board and did not obviate anything.

Dr. McBride asked Dr. Mericle about the difficulties he had while employed by the California Department of Corrections.

Dr. Mericle explained that the problem the administration had with him was that he did not write his notes in S.O.A.P.I. format. When they fired him, it was based upon four chart notes that were not written according to the S.O.A.P.I. format.

Dr. McBride stated the termination covered a wider array of difficulties which interfered with the proper care of the patient population at that time and his inability to work within that system.

Dr. Mericle stated there were four chart notes and he was accused of verbal sexual harassment on two occasions.

Dr. McBride asked Dr. Mericle about the complaints made against him while he was employed at Loyalton.

Dr. Mericle explained the circumstances surrounding the complaints made against him while employed at the hospital in Loyalton and the investigation of those complaints.

Dr. McBride asked whether Dr. Mericle was asked to leave the hospital in Loyalton, and he stated he was not. Dr. McBride asked whether he was ever reprimanded by the hospital there and Dr. Mericle said he did not think so.

Dr. Lamerson asked Dr. Mericle why, after being denied a license due to untruthful responses on his previous application, he again responded incorrectly to one of the same questions on his current application, though he later corrected it.

Dr. Mericle explained that when he first read the question he thought it was referring only to criminal investigations, and when he realized it was asking about any type of investigation, he corrected it.

Dr. Lamerson stated that Question 31 is very much directed towards medicine, not towards a felony, and Dr. Mericle stated it was saved on his computer and he printed it and it was just a slip.

Dr. Rodriguez asked about the lawsuits filed against him beginning in 2002. Dr. Mericle stated they were all generated by inmates and all were dismissed with no monies paid or settlements.

Dr. Lamerson moved to return to Closed Session. Dr. McBride seconded the motion, and it passed.

Upon returning to Open Session, Dr. Baepler moved that the Board deny Dale Mericle, M.D.'s application for licensure, based upon Dr. Mericle's misleading, inaccurate and/or incomplete statements concerning his application for licensure, particularly with regard to Question 31. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Baepler moved that the Board restrict Dr. Mericle from reapplying for licensure for three years. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. Rodriguez seconded the motion, and it passed.

26(b) Norman Zellers, P.A.-C

Dr. Lamerson questioned Norman Zellers, P.A.C, who appeared before the Board to respond to questions concerning his affirmative response to Question 13 on his application for licensure.

Mr. Zellers explained the circumstances surrounding his misdemeanor arrest and conviction in 1994.

Dr. Lamerson moved that the Board grant Norman Zellers, P.A.-C's application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Ms. Stoess seconded the motion, and it passed.

26(c) Paul Miller, C.R.T.

Mrs. Kirch questioned Paul Miller, C.R.T., who appeared before the Board to respond to questions concerning his affirmative responses to Questions 12 and 19 on his application for licensure.

Mr. Miller explained the circumstances surrounding his convictions for theft in 1982 and why he failed to disclose information concerning those convictions to the Arizona Board when applying for licensure there, as well as on his application with the Nevada Board.

Mrs. Kirch moved that the Board grant Paul Miller, C.R.T.'s application for licensure. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Ms. Stoess seconded the motion, and it passed.

26(d) Syed Ahmad, M.D.

Dr. Held questioned Syed Ahmad, M.D., who appeared before the Board to respond to questions concerning his passage of the USMLE.

Dr. Ahmad described his training and why it took him over 11 years to pass all three steps of the USMLE.

Dr. Held moved that the Board grant Syed Ahmad, M.D.'s application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Ms. Stoess seconded the motion, and it passed.

26(e) Carol Cheney, M.D.

Carol Cheney, M.D. appeared before the Board on her application for licensure by endorsement.

Dr. Baepler asked Dr. Cheney where she planned to work if she were granted a license.

Dr. Cheney told the Board that, if licensed, she would be working for the Nevada Rural Health Centers, at the Sierra Health Center, one week a month, developing a Diabetes program primarily for uninsured patients.

Dr. Baepler explained the circumstances under which the Board grants licensure by endorsement.

Dr. Baepler moved that the Board decline to exercise its discretion to grant licensure by endorsement to Carol Cheney, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Baepler moved that the Board grant an unrestricted license to Dr. Cheney, subject to successful passage of a peer review. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Held moved to return to Closed Session for the same purposes stated before. Dr. McBride seconded the motion, and it passed.

26(f) Maria Palacios, M.D.

Dr. Anwar questioned Maria Palacios, M.D., who appeared before the Board to respond to questions concerning her affirmative response to Question 19 on her application for licensure, and the fact that she has not practiced clinical medicine since November 2002.

Dr. Palacios stated she recently passed her American Board of Preventive Medicine/Occupational Medicine Boards, and explained that her most recent patient care was working as a medical assistant for several months.

Dr. Baepler moved that the Board grant Maria Palacios, M.D.'s application for licensure. Dr. Rodriguez seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Anjum moved to return to Closed Session for the same purposes stated before. Dr. Rodriguez seconded the motion, and it passed.

26(g) Mohamed Saleh, M.D.

Dr. Anwar questioned Mohamed Saleh, M.D., who appeared before the Board to respond to questions concerning his affirmative responses to Questions 13 and 33 and his negative response to Question 31 on his application for licensure.

Dr. Saleh explained the circumstances surrounding his arrest in 1995 on charges that were subsequently dismissed. He explained that he responded in the negative to Question 31 because at the time he completed the application, he did not remember a meeting he had with an investigator in Florida concerning one case and he was unaware of the other investigations against him by the Florida Board, as he was never notified he was under investigation.

Dr. Anjum moved that the Board grant Mohamed Saleh, M.D.'s application for licensure. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. McBride moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

26(h) Sheila Raumer, M.D.

[Dr. Raumer was unable to appear before the Board because she was with her ill father in England.]

Dr. Baepler moved that the Board grant Sheila Raumer, M.D.'s application for licensure, subject to her maintaining Board Certification in Family Practice. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Rodriguez moved to return to Closed Session for the same purposes stated before. Dr. Anjum seconded the motion, and it passed.

26(i) Allen Cooper, M.D.

Dr. Rodriguez questioned Allen Cooper, M.D., who appeared before the Board on his application for licensure by endorsement.

Dr. Cooper described his current duties at Stanford. He is the Chief of Gastroenterology and Hepatology, and he spends half his time in administration and the other half treating liver disease. He explained that what he wants to do in Nevada is reopen a clinic in Reno that was once staffed by another faculty member, who has left, so that patients in the area can receive treatment locally. He stated his primary area of expertise is in liver metabolism and fat metabolism by the liver, and he has approximately 120 to 130 publications.

Dr. Baepler moved that the Board exercise its discretion to grant licensure by endorsement to Allen Cooper, M.D. Ms. Stoess seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

RECESS

Mrs. Kirch moved to adjourn the meeting. Ms. Stoess seconded the motion, and it passed.

Dr. Anwar recessed the meeting at 5:15 p.m.

SATURDAY, MARCH 18, 2006

Board Members Present

Javaid Anwar, M.D., President
Sohail U. Anjum, M.D., Vice President
Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
Marlene J. Kirch
Charles N. Held, M.D.
Jean Stoess, M.A.
Cindy Lamerson, M.D.
S. Daniel McBride, M.D.
Benjamin J. Rodriguez, M.D.

Staff Present

Drennan A. Clark, J.D., Executive Director/Special Counsel
Laurie L. Munson, Deputy Executive Director/
Information Systems Administrator/Chief of Administration
Bonnie S. Brand, J.D., General Counsel
Edward O. Cousineau, J.D., Deputy General Counsel
Lyn E. Beggs, J.D., Deputy General Counsel
Jerry C. Calvanese, M.D., Medical Reviewer
Lynnette L. Daniels, Chief of Licensing
Carolyn H. Castleman, Deputy Chief of Licensing
Donald A. Andreas, Investigator (in Las Vegas)

Also Present

Dianna Hegeduis, J.D., Chief Deputy Attorney General

RECONVENE

Dr. Anwar reconvened the meeting at 8:30 a.m.

Agenda Item 26 ***(CONTINUED)***

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS
FOR LICENSURE**

Mrs. Kirch moved to go into Closed Session to discuss the character and professional competence of applicants for licensure. Ms. Stoess seconded the motion, and it passed.

CLOSED SESSION

26(j) Mrugendra Gandhi, M.D.

Dr. McBride questioned Mrugendra Gandhi, M.D., who appeared before the Board to respond to questions concerning his affirmative response to Question 12 on his application for licensure.

Dr. Gandhi described the circumstances surrounding the malpractice claims against him, and described his current medical practice.

Dr. McBride moved that the Board grant Mrugendra Gandhi, M.D.'s application for licensure. Dr. Baepler seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Baepler moved to return to Closed Session for the same purposes stated before. Dr. Rodriguez seconded the motion, and it passed.

26(k) Betsy Shaw, M.D.

Dr. Held questioned Betsy Shaw, M.D., who appeared before the Board on her application for licensure by endorsement.

Dr. Held asked Dr. Shaw if there was a particular reason she chose not to seek certification in Family Practice.

Dr. Shaw explained that at the time she came out of residency, her mother had chronic renal failure, and she took care of her, and her own children were growing up, so she didn't have time to pursue it.

Dr. Anwar explained the circumstances under which the Board grants licensure by endorsement, and stated that Dr. Shaw did not qualify. He suggested that she could take the SPEX, and if she were to pass, she would then meet the requirement of having passed a major examination within the last 10 years.

Dr. McBride moved that the Board decline to exercise its discretion to grant licensure by endorsement to Betsy Shaw, M.D. Dr. Baepler seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Anjum moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed.

26(l) Anant Sonpatki, M.D.

Dr. Baepler questioned Anant Sonpatki, M.D., who appeared before the Board to respond to questions concerning his affirmative responses to Questions 13 and 31 on his application for licensure.

Dr. Sonpatki described his training. He explained the circumstances surrounding his arrest in 1997 on charges that were subsequently dismissed, and the discrepancy in the dates he listed on his Florida application as the dates he was absent from training and those from the medical school.

Dr. Baepler moved that the Board grant Anant Sonpatki, M.D.'s application for licensure. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Rodriguez moved to return to Closed Session for the same purposes stated before. Dr. Anjum seconded the motion, and it passed.

26(m) Luke Perkocha, M.D.

Dr. Rodriguez questioned Luke Perkocha, M.D., who appeared before the Board on his application for licensure by endorsement.

Dr. Rodriguez told Dr. Perkocha the reason he was before the Board was because he had not passed a major examination within 10 years. He asked Dr. Perkocha whether Pathology is now requiring recertification, and Dr. Perkocha stated that those now in training will have to recertify, but he obtained his license before that requirement was in place and does not have to recertify. The Dermatopathology Board does not currently require recertification for anyone.

Dr. Rodriguez moved that the Board decline to exercise its discretion to grant licensure by endorsement to Luke Perkocha, M.D. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Rodriguez moved that the Board grant an unrestricted license to Dr. Perkocha, subject to successful passage of a peer review. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. Held seconded the motion, and it passed.

26(n) Ronald Smith, M.D.

Dr. Anwar questioned Ronald Smith, M.D., who appeared before the Board to respond to questions concerning his affirmative response to Question 19 on his application for licensure.

Dr. Smith explained the circumstances surrounding his resignation from his fellowship at Children's Hospital Medical Center in Akron while under investigation by the hospital for violation of an institutional policy regarding the use of computers.

Dr. Baepler moved that the Board grant Ronald Smith, M.D.'s application for licensure. Dr. McBride seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 25

MATTERS FOR FUTURE AGENDA

Mr. Clark stated the following matters would be on the agenda for the June Board meeting: the annual review and discussion of professional competency of staff and staff compensation, consideration of renewal of the annual contract with Nevada Broadcasters Association for the Board's public service announcement program for October 1, 2006 through September 30, 2007, consideration of approval of the 2005 Board Annual Report, election of officers and appointment of committee members and discussion concerning legislative initiatives for 2007 legislative session.

Agenda Item 26
PUBLIC COMMENT

The Board received no public comment.

ADJOURNMENT

Mrs. Kirch moved to adjourn the meeting. Dr. Anjum seconded the motion, and it passed.

Dr. Anwar adjourned the meeting at 10:15 a.m.